THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.7289 of 1997

Dated: 05.12.2006

Between

K.Gopal, S/o Subbarajulu,
Age about 40 years,
Occupation: Cultivation,
R/o Venkatagiri, Venkatagiri Mandal,
Nellore District.

…Petitioner

And

The Special Collector,
Land Acquisition Unit,
Telugu Ganga Project, Nellore and four others.

…Respondents

THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.7289 of 1997

ORDER:

Heard Sri G.Jagadeeswar, the learned counsel representing the petitioner and the learned Government Pleader for Land Acquisition.

The writ petition is filed for issuance of a writ of *mandamus* directing the respondents to pay the compensation of Rs.1,00,000/- for the schedule mentioned land which was acquired by the respondents for the purpose of Telugu Ganga Project at K.M.46.340 (T) 0.570 of K.P.Canal (Kandaleru-Pundi Canal), at Kalapadu Village, Venkatagiri Mandal, Nellore District and pass such other suitable orders.

It is stated that the petitioner purchased the schedule mentioned land situated in Kalapadu village, Venkatagiri Mandal, Nellore District by way of a registered sale deed, and ever since, he has been in possession and enjoyment of the said land. The petitioner developed the said land into agricultural land by spending huge amounts and that he has been raising crops thereon and that the said land was yielding two crops per year. The schedule of the same has been specified in the affidavit filed in support of the writ petition, which reads as under:

> "Nellore District, Venkatagiri Sub-Registrar, Venkatagiri Mandal, Kalapadu Village:-
>
> Patta No.212, S.No. 34-1 0.31 Acres
> " 34-2 0.56 "
> " 34-4 0.17 "
> " 34-3A 0.71 "
>
> Wet land."

It is stated that the respondents acquired the said land for the purpose of approach roads for SIB at K.M.46.340 (T) 0.570 of

Kandaleru Pundi Canal (Telugu Ganga Project) at Kalapadu village, without the consent of the petitioner. It is also stated that the respondents have filled up a portion of the schedule land with mud and gravel for laying the road. The respondents have also dug pits in the entire remaining schedule mentioned land and transported the mud/clay from the said land for the purpose of the canal and that the entire schedule is lying waste and it is not fit for cultivation now. Several factual details are narrated in paragraph Nos.5 and 6 of the affidavit filed in support of the writ petition and it is stated that the petitioner made several representations in relation thereto and also issued a legal notice.

In the counter-affidavit filed on behalf of the respondents, several allegations made by the petitioner in the petition were denied. But, however, at paragraph No.2 of the counter affidavit it is stated that "the petitioner's land of 0.31 Acres in Sy.No.34.1 was utilized with oral permission of petitioner in public interest to accelerate the programme of Telugu Ganga Project to release the drinking water to Chennai city. During the course of execution, the petitioner never objected the work of formation of approach roads to SLB. At KM: 46.340 (+) 0.370 of kp. Canal and the department took simultaneously for land Acquisition process is going on at that time. Further, the petitioner has represented a petition Dtd.3-11-95 in "Prajala Vaddaku Palana" programme by Government and wherein he has clearly stated that his land about 25 cents were acquired and utilized by the T.G.P. Department (Xe-rox Copy of petitioner's application enclosed) and he has requested for justification. As per the petitioner's representation, the entire bit of 0.31 Acres under S.No.34.1 Land Acquisition proposals were sent to the Special Deputy Collector, Land Acquisition, Telugu Ganga Project, Rapur at Nellore, in this office Letter No.1136 M, Dated 22-11-1995. Then the land acquisition authorities have

inspected the land and decided that the land is patta dry land under Patta No.90. Then the D.N.Proposals were submitted to Special Officer, Land Acquisition, Telugu Ganga Project, Rapur at Nellore, for early finalisation, which is under consideration by L.A. Department."

In paragraph No.3 of the counter affidavit it is stated that "the petitioner's statement that the lands developed to agricultural using and raising the crops is far away from truth and which was personally inspected and declared as Patta dry land in Joint inspection by the Telugu Ganga Project and Land Acquisition authorities. For formation of approach roads to SLB. at KM.46.340 (+) 0.370 necessary borrow area was provided in the Agreement vide Item No.16, 17 and 18 of Schedule-A. For forming of casing Zone necessary soils were conveyed with ½ KM. lead from approved borrow area Bangarupuram tank and some useful soils were obtained from the Canal excavation with an initial lead of 10 M regarding the gravel was conveyed from approved quarry of Boppapuram tank with a lead of 4 KM. As per agreement conditions the contractor has conveyed the all required soils from various sources and formed the approach roads to the SLB. At KM: 46.340 (+) 0.370 of KP. Canal. As per petitioner's statement in the petition that the contractor has dig the petitioner's other lands of S.Nos (S.No.34.2 ..0.50 Acres; S.No.34.2.. 0.17 Acres; S.No.34.3A .. 0.71 Acres) is not at all correct and it is for away from truth."

In the counter affidavit, a specific stand is taken that "the payment of compensation is under consideration by the Special Collector, Land Acquisition Unit, Telugu Ganga Project, Nellore". It is further stated that "as per the petitioner's statement, the utilized land by the TGP is only 25 cents. But the Department has decided to take the entire bit of land about 31 cents under S.No.34.1 and that respected proposals were also prepared and sent to Land Acquisition

Department. The rest of the land as stated by the petitioner in his petition is not correct to this department for Telugu Ganga Project."

It is further stated that the Land Acquisition Officer is competent to fix the compensation basing on the market value and hence the claim made by the petitioner is expensive. It is further stated that no extra land of the petitioner is required to Telugu Ganga Project other than 31 cents and hence the specific stand is taken that on this 31 cents of land only the compensation would be fixed. Several other factual details are also narrated in the counter affidavit.

It is stated that the other extent of land specified supra also became useless because of the acts of the respondents. This being predominantly a question of fact, this Court cannot express any opinion relating to this aspect. But, however, in the event of the respondents being satisfied that the stand taken by the petitioner is justifiable, apart from the extent specified in the affidavit that the other lands also became useless because of the acts of the respondents, the respondents are bound to follow the procedure, as contemplated under the provisions of the Land Acquisition Act, 1894 (for short 'the Act') in relation to the other lands too, and fix the compensation and pay the same in accordance with law. This Court also is not inclined to express any opinion relating to whether the claim made by the petitioner, on quantum of compensation, is just and reasonable or not and it is for the concerned Land Acquisition Officer, to decide the same in accordance with law.

Hence, depending upon the facts and circumstances of the case, this Court is of the considered opinion that the Writ Petition be disposed of directing the respondents to initiate Land Acquisition Proceedings in accordance with law relating to the extent of 31 cents of land as specified in the counter affidavit and also verify the truth or

otherwise of the stand taken by the petitioner in relation to other lands specified in the affidavit filed in support of the writ petition and in the event of being satisfied the respondents are directed to initiate the Land Acquisition Proceedings in relation to the other lands in accordance with the Provisions of the Act and fix the compensation and duly pay the same to the petitioner in accordance with law, as expeditiously as possible.

With the above directions, the writ petition is hereby allowed to the extent indicated above. There shall be no order as to costs.

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P.S.Narayana, J

Date: 05.12.2006

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